



Melbourne City Council
November 24, 2020
City Manager's Item Report

Department:	Community Development
Presenter:	Ralph Reigelsperger
Council District:	N/A
Reading Number:	1
Public Hearing:	No
Quasi-judicial Item (Disclosure Required):	No
Item Number:	C.22.

Subject:

Ordinance No. 2020-56, City Code, Chapter 58 – Wastewater/Sewer Use Regulation Text Amendment

Background/Consideration:

This is the first reading of an ordinance amending City Code, Chapter 58, Article IV, Division 3, Sewer Use Regulations, to update the sewer use regulations, specifically pretreatment standards.

In 1999, the City of Melbourne adopted a Sewer Use ordinance and industrial pretreatment program (Ord. No 99-47). Since wastewater standards are governed by the Florida Department of Environmental Protection (FDEP) and the Environmental Protection Agency (EPA), it is necessary to periodically make amendments for compliance with these state and federal agencies. Recent Florida FDEP and EPA regulation changes have occurred, necessitating the current changes to the ordinance.

The revisions proposed include the revision to Sec. 58-310 for the unique reporting requirements of the dental amalgam rule (and any future reporting requirement that may not fall within 58-304 to 308), as well as the updates to reference the “most recent final versions” of relevant FDEP and EPA regulations, rather than identifying a specific adoption date.

On November 5, 2020, the Planning and Zoning Board voted unanimously to recommend approval of the proposed amendment.

Fiscal/Budget Impact:

N/A

Requested Action:

Approval of Ordinance No. 2020-56, based upon the findings contained in the Planning and Zoning Board memorandum.

Memorandum

To: Shannon M. Lewis, City Manager
Thru: Cindy Dittmer, AICP, Community Development Director
From: Cheryl A. Dean, AICP, Planning Manager
Re: **Finding of Consistency (FOC-2020-06) Wastewater/Sewer Use Regulations Text Amendment**
Date: November 12, 2020

Proposed Action

The Public Works Department has initiated this proposal to consider an ordinance of the City of Melbourne, Brevard County, Florida, City Code, amending Chapter 58, regarding sewer use standards.

History

On October 12, 1999, the City adopted Ordinance No. 99-47 which adopted and implemented the City's Wastewater Treatment/Sewer Use Regulation ordinance and industrial pre-treatment program. This required the City of Melbourne to implement a wastewater treatment program, specifically including the pre-treatment program under 40 CFR Part 403, in order to implement pre-treatment standards to control pollutants which pass through or interfere with treatment processes and domestic wastewater facilities. Recent Florida Department of Environmental Protection (FDEP) and Environmental Protection Agency (EPA) regulation changes provided the need to revisit and propose changes to the current City Code regulations.

Issues and Considerations

The revisions proposed in the ordinance include the revision to Sec. 58-310 for the unique reporting requirements of the dental amalgam rule (and any future reporting requirement that may not fall within 58-304 to 308), as well as the updates to reference the most recent final versions of relevant FDEP and EPA regulations.

The following is a summary of the ordinance changes:

- **Sec. 58-282. (a)**
Discontinue reference to a specific iteration date of Code of Federal Regulation (CFR) adopted by the City, and replace with the most recent final version of.
- **Sec. 58-304. e.**

Discontinue reference to a specific iteration date of Code of Federal Regulation (CFR) adopted by the City, and replace with the most recent final version of.

➤ **Sec. 58-310.**

To further clarify that reports may be required from unpermitted users, the paragraph is expanded to read as follows:

Users who are not required to obtain an individual wastewater discharge permit may be subject to reporting requirements pursuant to relevant Department or EPA regulation. All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the coordinator as required by the Department or EPA regulation, or as the coordinator may require.

➤ **Sec. 58-312.**

Discontinue reference to a specific iteration date of Code of Federal Regulation (CFR) adopted by the City, and replace with the most recent final version of.

On November 5, 2020, following review and discussion, the Planning and Zoning Board voted unanimously to recommend approval of the proposed amendment.

Recommendation

Recommend approval of the ordinance based upon the findings contained in the Planning and Zoning Board memorandum.

Memorandum

To: Mayor and Council
From: Ed Coruzzi, Chairman, Planning and Zoning Board
Re: **Finding of Consistency (FOC-2020-06) Wastewater Treatment Text Amendment**
Date: November 6, 2020
Applicant: City of Melbourne

The Planning and Zoning Board, at its regularly scheduled meeting of November 5, 2020, reviewed the above referenced request for a Finding of Consistency.

Following review and discussion, the Planning and Zoning Board voted unanimously to recommend approval of FOC-2020-06, for an amendment to City Code Chapter 58, Article IV, and Division 3. Specifically 58-282. (a), 58-304. (e), 58-310., and 58-312. The proposed changes pertain to Pretreatment standards. The Planning and Zoning Board's recommendation is based upon the following findings:

Findings for the Proposed Text Amendment

1. The proposed modifications to City Code are consistent with the goals and objectives of the Comprehensive Plan and will assist in the implementation of policies within the Comprehensive Plan. The proposed modifications will bring the City's regulations into conformance with current FDEP and EPA standards.
2. The proposed revisions are specifically consistent with Sanitary Sewer Sub-Element Goal 1, which states the City will "develop, operate and maintain an environmentally sound, economically efficient wastewater collection, treatment and disposal system for meeting the current and future needs within the City's Urban Service Area." The proposed changes will update the City's Sewer Use Ordinance and implement pre-treatment standards to control certain pollutants.
3. The proposal will have no adverse effect on the City's ability to provide adequate public services and facilities. The proposal will update the City's Sewer Use Ordinance to conform to current FDEP and EPA requirements.
4. The proposed changes are consistent with City Code's purpose of promoting the health, safety, education, cultural and economic welfare of the public by updating the City's Sewer Use Ordinance to be consistent with current FDEP and EPA regulations.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Ed Coruzzi", written over a horizontal line.

Ed Coruzzi, Chairman
Planning and Zoning Board

ORDINANCE NO. 2020-56

AN ORDINANCE OF THE CITY OF MELBOURNE, BREVARD COUNTY, FLORIDA, RELATING TO WASTEWATER TREATMENT; MAKING FINDINGS; AMENDING CHAPTER 58 OF THE CITY CODE, ENTITLED "UTILITIES"; AMENDING ARTICLE IV, ENTITLED "WASTEWATER TREATMENT"; AMENDING SECTION 58-282, PRETREATMENT STANDARDS; CATEGORICAL STANDARDS; AMENDING SECTION 58-304, BASELINE MONITORING REPORTS; AMENDING SECTION 58-310, REPORTS REQUIRED FROM UNPERMITTED USERS; AMENDING SECTION 58-312, ANALYTICAL REQUIREMENTS; PROVIDING FOR SEVERABILITY AND INTERPRETATION; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN ADOPTION SCHEDULE.

WHEREAS, pursuant to Chapter 62-625, Florida Administrative Code, the City of Melbourne has adopted a Sewer Use Ordinance, as codified in Chapter 58, Article IV, Division 3 of the Melbourne City Code, to implement pre-treatment standards pursuant to federal and regulations to control pollutants which pass through or interfere with wastewater treatment processes and domestic wastewater facilities; and

WHEREAS, City of Melbourne staff have conducted a periodic review of the Sewer Use Ordinance and by this ordinance, propose revisions and updates to the Sewer Use Ordinance; and

WHEREAS, City Council finds it to be in the public interest to revise and update various provisions of the Sewer Use Ordinance; and

WHEREAS, specific authority for this ordinance includes, but is not limited to, the Clean Water Act, 33 U.S.C. §1251; Article VIII, §2, Florida Constitution of 1968; Chapters 163, 166, and 403, Florida Statutes; §§163.3161, 163.3194, 163.3201, and 403.0885, Florida Statutes; and Chapter 62-625, Florida Administrative Code; and

WHEREAS, the Planning and Zoning Board, sitting as both the Local Planning Agency and the Planning and Zoning board, has found this ordinance to be consistent with the Comprehensive Plan; and

WHEREAS, this ordinance is specifically found to be in the promotion of the public health, safety, welfare, and economic order in that it seeks to provide for the safe and economic disposal and treatment of wastes and wastewater, all in the interest of protecting the public health.

BE IT ENACTED BY THE CITY OF MELBOURNE, FLORIDA:

SECTION 1. That Section 58-282 of the City Code of Melbourne, Florida is hereby amended to read as follows:

Sec. 58-282. Pretreatment standards; categorical standards.

(a) Pretreatment standards specifying quantities or concentrations of pollutants or pollutant properties which have the potential to be discharged in accordance with the most recent final version of 40 CFR 403.6, as of July 1, 2009, to a WWF by existing or new industrial users, in specific industrial subcategories, are established as separate federal regulations under the appropriate subpart of 40 CFR Chapter I, Subchapter N, Parts 405 through 471, and which have been incorporated by reference in F.A.C. 62-625.410. These standards are hereby adopted and incorporated herein. These pretreatment standards, unless specifically noted otherwise, shall be in addition to all applicable pretreatment standards and requirements set forth in sections 58-279 through 58-293.

* * * *

SECTION 2. That Section 58-304 of the City Code of Melbourne, Florida is hereby amended to read as follows:

Sec. 58-304. Baseline monitoring reports.

* * * *

(b) Users described above shall submit the following information:

* * * *

(5) Measurement of pollutants.

* * * *

e. All activities related to sampling and analysis shall comply with section 58-312 and 58-313, and F.A.C. ch. 62-160. Sampling activities shall be performed according to the procedures specified in the most recent final version of "The Department of Environmental Protection Standard Operating Procedures for Field Activities," DEP-SOP-001/01, March 31, 2008, hereby adopted and incorporated by reference.

* * * *

SECTION 3. That Section 58-310 of the City Code of Melbourne, Florida is hereby amended to read as follows:

Sec. 58-310. Reports required from unpermitted users.

Users who are not required to obtain an individual wastewater discharge permit may be subject to reporting requirements pursuant to relevant Department or EPA regulations. All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the coordinator as required by the Department or EPA regulation, or as the coordinator may require.

SECTION 4. That Section 58-312 of the City Code of Melbourne, Florida is hereby amended to read as follows:

Sec. 58-312. Analytical requirements.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with applicable test procedures identified in the most recent final version of 40 CFR 136, as of July 1, 2009, hereby adopted and incorporated by reference. If a test for a specific component is not listed in 40 CFR 136, or if the test procedure has been determined to be inappropriate for the analyte in question (e.g., insufficient sensitivity), the laboratory, with the approval of the industrial user and control authority, shall identify and propose a method for use in accordance with F.A.C. 62-160.300 and 62-160.330. If a sampling procedure is not available or none of the approved procedures are appropriate for collecting the samples, the sampling organization, with the approval of the industrial user and city, shall identify and propose a method for use in accordance with F.A.C. 62-160.220.

SECTION 5. Severability/Interpretation Clause.

(a) That in the event that any term, provision, clause, sentence or section of this ordinance shall be held by a court of competent jurisdiction to be partially or wholly unenforceable or invalid for any reason whatsoever, any such invalidity, illegality, or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences, or sections of this ordinance, and this ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

(b) That in interpreting this ordinance, underlined words indicate additions to existing text. Asterisks (* * *) indicate an omission from the ordinance of text, which exists in the Code of

Ordinances. It is intended that the text in the Code of Ordinances denoted by the asterisks and not set forth in this ordinance shall remain unchanged from the language existing prior to adoption of this ordinance.

SECTION 6. That this ordinance shall become effective immediately upon its adoption in accordance with the City Charter of the City of Melbourne.

SECTION 7. That this ordinance was passed on the first reading at a regular meeting of the City Council on the ____ day of _____, 2020 and adopted on second/final reading at a regular meeting of the City Council on the ____ day of _____, 2020.

BY: _____
Paul Alfrey, Mayor

ATTEST:

Kevin McKeown, City Clerk

Ordinance No. 2020-56